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| ART UNIT | PAPER NUMBER |
|---|---|
| 3625 | |

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/761,506 | DOHERTY ET AL. | |
| | Examiner | Art Unit | |
| | Nicholas D. Rosen | 3625 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *25 September 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-44* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-44* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

Claims 1-44 have been examined.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 25, 2006, has been entered.

### *Claim Objections*

Claims 42-44 are objected to because of the following informalities: In the third line of claim 42, "said object includes" should be either "said object including" or "wherein said object includes". In the fifth line of claim 42, "said object is" should be either "said object being" or "wherein said object is". Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 1-31**

Claims 1, 2, 4, 8, 9, 10, 11, 12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al. (U.S. Patent 6,313,835) in view of Singh (U.S. Patent 6,308,206) and Markus et al. (U.S. Patent 6,490,601). As per claim 1, Gever discloses an Internet advertising system comprising: a multimedia presentation comprising at least one component selected from a group consisting of computer generated animation and full-motion video, a given item within the selected component of the multimedia presentation represented by (presumably) an embedded placeholder, the embedded placeholder programmed to dynamically perform a series of actions of the given item within the multimedia presentation (column 2, line 5, through column 3, line 5); a set of advertisements corresponding to the embedded placeholder, each advertisement being indexed by at least one demographic indicator (column 1, lines 52-61; column 2, line 5, through column 3, line 5; column 8, lines 3-10); identifier means for identifying at least one demographic characteristic of a user, wherein the at least one demographic characteristic of the user corresponds to at least one demographic indicator (inherent from column 2, lines 36-52); selector means for selecting a relevant advertisement from the set of advertisements, the selector means configured to receive

the at least one demographic characteristic of the user from the identifier means, and the selector means including a comparison of the user's at least one demographic characteristic with the at least one demographic characteristic of each advertisement to select the relevant advertisement for the user (inherent from column 2, line 26, through column 3, line 5, and column 8, lines 3-10; providing an appropriate animation sequence or other Web page component based on the geographic location of a visitor is held to imply means for making necessary comparisons, etc.); inserter means for inserting the relevant advertisement into the embedded placeholder of the multimedia presentation, the inserter means configured to receive the relevant advertisement from the selector means so as to create an advertisement programmed to dynamically follow the series of actions of the given item integrated within the multimedia presentation and targeted to the user's at least one demographic characteristic, and configured to insert the relevant advertisement after identifying the at least one demographic characteristic (inherent from column 2, line 14 through column 3, line 5; and column 8, lines 3-10); and delivery means for delivering the multimedia presentation to the user (column 15, line 49, through column 16, line 14). Arguably, Gever's disclosure implies an embedded placeholder, to hold a place for such alternative pictures or animations as a background which changes with the time or season (column 3, lines 1-5). Even if Gever's invention could somehow be implemented as described in Gever's patent without anything qualifying as an embedded placeholder, the use of embedded placeholders is well known, as taught by Singh (column 3, lines 50-63). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's

invention to use an embedded placeholder as recited, for the obvious advantage of readily presenting whatever advertisements, animations, etc., were to be presented in accordance with the site visitor's demographic characteristics and other relevant data.

Gever does not expressly disclose that each of the advertisements are stored separate from the multimedia presentation, but it is well known for advertisements to be stored separate from a website, as taught, for example, by Markus (column 1, line 66, through column 2, line 37); this also teaches delivering to the user the ad created by the inserter means from the website and the set of ads stored separately. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the advertisements to be stored separately, for the obvious advantage of enabling data from advertisers to be integrated into Web sites stored elsewhere.

Neither Gever nor Singh expressly discloses that the placeholder is an advertisement placeholder, although Gever mentions advertisements (column 8, lines 3-10), but advertisements in Internet presentations are well known, as taught, for example, by Markus (as above). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the placeholder to be an advertisement placeholder, for the obvious advantage of enabling data from advertisers to be integrated into Web sites and displayed to potential buyers of advertised goods and services.

As per claim 2, Gever discloses a hyperlink in the advertisement or other multimedia presentation (column 6, lines 13-15; Figure 4; column 8, lines 25-35; see also claim 6).

As per claim 4, Gever discloses that the multimedia presentation is an animation (Abstract; and repeated references to animation throughout the Gever patent).

As per claim 8, neither Gever nor Singh expressly discloses that the multimedia presentation includes at least two embedded advertisement placeholders, but Gever discloses creating one *or more* individualized Web page components (column 2, lines 9-11), and it is held to be within the scope of a person of ordinary skill in the art to duplicate known parts for multiple effects (*St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8, 11; 549 F2d 833 (7th Cir. 1977); *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960)). Furthermore, Markus teaches that many Web pages contain links to dozens of separate remote Internet resources (column 1, line 66, through column 2, line 37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the multimedia presentation include at least two embedded advertisement placeholders, for the obvious advantage of presenting several advertisements, other Web page components, or parts thereof.

As per claim 9, Gever discloses multiple advertisements (column 1, lines 52-61; column 2, line 5, through column 3, line 5; column 8, lines 3-10). Neither Gever nor Singh expressly discloses that there are multiple sets of advertisements, each set corresponding to one of the at least two embedded advertisement placeholders, but it is held to be within the scope of a person of ordinary skill in the art to duplicate known

parts for multiple effects (*St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8, 11; 549 F2d 833 (7th Cir. 1977); *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960)). Furthermore, Markus teaches that many Web pages contain links to dozens of separate remote Internet resources (column 1, line 66, through column 2, line 37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for there to be multiple sets of advertisements, each set corresponding to one of the at least two embedded advertisement placeholders, for the obvious advantage of presenting multiple ads, at different points in a web site, and/or at different times during a multimedia presentation.

As per claim 10, Gever discloses that the identifier means can include cookies generated by an Internet browser of the user (column 15, line 60, through column 16, line 8, the browser being held to follow from the cookies and other Internet-related procedure, as in column 1, lines 11-21).

As per claim 11, Gever discloses that the identifier means can include a survey completed by the user (column 15, line 49, through column 16, line 8).

As per claim 12, Gever does not expressly disclose that the inserter means is a computer program, but does disclose that the inserter means involves manipulating Web pages (column 2, line 14 through column 3, line 5; and column 8, lines 3-10), and discloses prior art programs for preparing Web pages (column 1). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the inserter means to be (or comprise) a computer program, for the obvious advantage of inserting relevant advertisements automatically according to

demographics and other factors, without having to employ a human being to monitor Web traffic and make insertions by hand.

As per claim 15, Gever discloses that the components of a Web page (which, as above, may be multimedia presentations, or parts of a multimedia presentation) may not be situated on a server, but only referenced by URL address (which implies being stored on a second server elsewhere) (column 15, lines 3-16).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, and Markus as applied to claim 2 above, and further in view of LeMole et al. (U.S. Patent 6,009,410). Gever does not expressly disclose that the hyperlink in the advertisement is a hyperlink to an advertiser's website (although "LINK1 = 'WWW.BUYLATER.COM'" in Figure 4 is highly suggestive). However, it is well known for advertisements to contain hyperlinks to an advertiser's website, as taught, for example, by LeMole (Abstract). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the hyperlink in the advertisement to be a hyperlink to an advertiser's website, for the obvious advantage of encouraging users to browse catalogs, etc., and make purchases at the advertiser's website.

Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, and Markus as applied to claim 4 above, and further in view of the anonymous article, "Macromedia Flash Animation Now Native in RealSystem 5.0." As per claim 5, Gever does not disclose that the animation is created using Macromedia Flash software, but Macromedia Flash is a well-known system of software for creating

animations, as taught by "Macromedia Flash Animation Now Native in RealSystem 5.0" (note that the paragraph beginning "Advertisers using Flash" specifically teaching using Flash to create advertisements for the Web, complete with animation). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the animation to be created using Macromedia Flash software, for the obvious advantage of readily creating animations viewable by many client systems.

As per claim 7, Gever discloses selecting from a plurality of pre-existing animation sequences (column 2, lines 9-20), an embedded placeholder presumably being added, as per Singh, to enable the desired pre-existing or modified animations to be displayed as desired.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, Markus, and the anonymous article, "Macromedia Flash Animation Now Native in RealSystem 5.0," as applied to claim 5 above, and optionally further in view of Borella et al. (U.S. Patent 6,182,125). Gever does not expressly disclose that the animation is an original presentation, but it could be taken as inherent that some animations are original presentations (not all animations could be copies of each other). Furthermore, the article, "Macromedia Flash Animation Now Native in RealSystem 5.0," discloses creating animations. But if, arguendo, this does not suffice, Borella teaches web pages including original content, including animation (column 4, lines 41-46). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the Flash animation to be an original presentation, for the

obvious advantage of enabling the presenter to provide an animation according to his own desires and tastes, and to avoid having to pay royalties to someone else for use of a copied presentation.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, and Markus as applied to claim 12 above, and further in view of Simpson (U.S. Patent 6,453,300). Gever does not expressly disclose that the computer program is Macromedia Generator, but Macromedia Generator is well known, as taught by the Simpson patent, which specifically teaches using Macromedia Generator in conjunction with Flash to personalize presentations (column 12, lines 3-16). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to use Generator, for the obvious advantage of accomplishing the creation of Flash or similar animations using a standard, widely available package for that purpose.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, and Markus as applied to claim 12 above, and further in view of Chen et al. (U.S. Patent 5,822,524). Gever does not expressly disclose that the computer program and the multimedia presentation are stored on the same server, but it is well known for various programs, data files, etc., to be stored on the same server, as taught, for example, by Chen (column 1, lines 21-64). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the computer program and the multimedia presentation both stored on the first server, for the obvious advantage of ready accessibility.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, and Markus as applied to claim 1 above, and further in view of the Microsoft Press Computer Dictionary and Jones ("Working on Site"). As per claim 16, Gever discloses delivery over a connection between a server storing the Web page component (which can be a multimedia presentation, as above) and discloses a viewer/user to whom pictures are transmitted, implying a computer operated by the user (column 9, lines 46-55). Gever does not expressly disclose that the connection is an Internet connection, but does refer to network connections and a Web page component. The Internet is a well-known network, as taught, for example, by the Microsoft Press Computer Dictionary (second definition of "Internet" on page 258, and subsequent entries relating to the Internet on pages 259-261) and it is well known that the World Wide Web is part of the Internet, as taught, for example, by Jones (Abstract, and paragraph beginning, "Marketers should be familiar"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the network connection to be an Internet connection, for the obvious advantage of connecting to the enormous number of people who access the Internet.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, Markus, the Microsoft Press Computer Dictionary and Jones ("Working on Site") as applied to claim 16 above, and further in view of official notice. Gever does not disclose a syndication network, but official notice is taken that syndication networks (as defined by the instant specification, page 10, lines 19-21) are well known, e.g.,

advertisers who supply banner ads to one or more Websites for publication. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the system to comprise a syndication network, for the obvious advantage of readily placing advertisements or other desired components on multiple Web sites.

Claims 18, 19, 21, 24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, Markus, the Microsoft Press Computer Dictionary, Jones ("Working on Site"), and official notice as applied to claim 17 above, and further in view of Kauffman et al. (U.S. Patent Application Publication 2002/0073084). As per claim 18, Kauffman teaches a syndication network collecting a multimedia presentation and a selected advertisement, and delivering the multimedia presentation containing the selected advertisement to the user's computer (paragraphs 7-10, 18-20, and 24; Figures 1 and 3). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have a syndication network do this, for the stated advantage of incorporating advertising to target particular end users.

As per claim 19, Kauffman teaches that the syndication network collects the multimedia presentation and the selected advertisement separate from one another, and a server in the syndication network inserts the selected advertisement into the multimedia presentation (paragraphs 7-10, 18-20, and 24; Figures 1 and 3). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the

time of applicant's invention to have the syndication network do this, for the stated advantage of incorporating advertising to target particular end users.

As per claim 20, Neither Gever nor Kauffman discloses a syndication network that collects the multimedia presentation having the selected advertisement inserted therein previous to entering the syndication network, but official notice is taken that it is well known to collect presentations or programs having advertisements already inserted therein (an example would be TV stations receiving and broadcasting national programs with nationwide advertisements already inserted by the networks). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the syndication network collect the multimedia presentation having the selected advertisement inserted therein previous to entering the syndication network, for the obvious advantage of distributing presentations with ads already included, the ads being either likely to be of interest to many viewers in general, or likely to be of interest to many viewers of the multimedia presentation.

As per claim 21, Kauffman teaches that the syndication network collects information relating to the identifier means from the user's computer (or other device), and delivers the identifier information to a rule server (selection means) which selects appropriate advertisements (see especially paragraph 19; also Figure 1). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the syndication network do this, for the stated advantage of incorporating advertising to target particular end users.

As per claim 24, Gever does not disclose that the system comprises a media buyer providing at least a portion of the set of advertisements, but official notice is taken that media buyers brokering advertising space, etc., are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for a media buyer to provide at least a portion of the set of advertisements, for the obvious advantage of running advertisements provided by persons and organizations which provide many advertisements.

Kauffman teaches identifier information from the syndication network being delivered to a rule server/selector means (paragraph 19; Figure 1), as in claim 21, and delivering the identifier information to the media buyer is not a significant distinction, inasmuch as the media buyer places relevant advertisements in appropriate places.

As per claim 25, Kauffman does not teach that the identifier information is delivered from the syndication network to the media buyer and from the media buyer to the selector means, but official notice is taken that it is well known to forward information from one party to another. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to deliver the identifier information from the syndication network to the media buyer and from the media buyer to the selector means, for the obvious advantage of making the identifier information available to the various interested parties.

As per claim 26, Kauffman does not teach that the identifier information is delivered from the syndication network to the media buyer, and the identifier information is also delivered from the syndication network to the selector means, but official notice

is taken that it is well known to deliver information to multiple concerned parties (for example, CC'ing emails). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the identifier information is delivered from the syndication network to the media buyer and also to the selector means, for the obvious advantage of making the identifier information available to the various interested parties.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, and Markus as applied to claim 1 above, and further in view of McCarthy et al. (U.S. Patent 6,904,408). Gever does not disclose that the system comprises a media buyer providing at least a portion of the set of advertisements, but media buyers brokering advertising space, etc., are well known, as taught, for example, by McCarthy (column 16, lines 15-24). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for a media buyer to provide at least a portion of the set of advertisements, for the obvious advantage of running advertisements provided by persons and organizations which provide many advertisements.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, Markus, and McCarthy as applied to claim 22 above, and further in view of official notice. Gever does not disclose that the media buyer receives information relating to the identifier means from the user's computer, but official notice is taken that it is well known for advertisers to receive information relating to identifier means from a user's computer. Hence, it would have been obvious to one of ordinary skill in the art of

electronic commerce at the time of applicant's invention for the media buyer to receive information relating to identifier means from a user's computer, for such obvious advantages as determining what advertisements to present to a user (based on demographics, etc.), billing for presentation of relevant advertisements to users in relevant categories, and enabling the advertiser/media buyer to contact the user if the user expresses interest, orders goods or services, etc.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, and Markus as applied to claim 1 above, and further in view of Krishan et al. (U.S. Patent 6,442,529). As per claim 27, Gever does not disclose means for assessing an advertisement charge to the sponsor of the selected advertisement delivered in the multimedia presentation, but it is well known to charge the sponsors of advertisements for running or displaying their ads, as taught, for example, by Krishan (column 1, lines 46-54). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include means for assessing an advertisement charge to the sponsor of the selected advertisement delivered in the multimedia presentation, for the stated advantage of making money from displaying the selected advertisement.

Claims 28, 29, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, Markus, and Krishan as applied to claim 27 above, and further in view of official notice. As per claim 28, Gever does not disclose that the sponsor's advertising charge is paid to an owner of the multimedia presentation, but official notice is taken that it is well known for advertising charges to be paid to the

owners of programs in which the ads appear. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the sponsor's advertising charge to be paid to an owner of the multimedia presentation, for the obvious advantage of making money for displaying ads in multimedia presentations, or, from another perspective, for the obvious advantage of persuading the owners of multimedia presentations to display one's ads.

As per claim 29, Gever does not disclose that the sponsor's advertisement charge is apportioned to a group comprising an owner of the multimedia presentation and an owner of a media buyer providing the selected advertisement, but official notice is taken that it is well known to make payments (commissions) to media buyers; for payments to owners of multimedia presentations, see rejection of claim 28 above. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the sponsor's advertisement charge to be apportioned to a group comprising an owner of the multimedia presentation and an owner of a media buyer providing the selected advertisement, for the reasons set forth above in rejecting claim 28, and for the obvious advantage of compensating a media buyer for its services in placing ads.

As per claim 30, Gever does not disclose that the sponsor's advertisement charge is apportioned to a group comprising an owner of the multimedia presentation, an owner of a media buyer providing the selected advertisement, and an owner of the delivery means for providing the multimedia presentation to the user, but official notice is taken that it is well known to make payments to owners of delivery means (websites,

ISP's, cable TV companies, etc.); for payments to owners of multimedia presentations and media buyers, see rejection of claims 28 and 29 above. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the sponsor's advertisement charge to be apportioned to a group comprising an owner of the multimedia presentation, an owner of a media buyer providing the selected advertisement, and an owner of the delivery means for providing the multimedia presentation to the user, for the reasons set forth above in rejecting claims 28 and 29, and for the obvious advantage of compensating the owner of delivery means for his services in allowing an ad to run, or from the other perspective, of profiting from running ads.

As per claim 31, Gever does not disclose that the delivery means is a syndication network, but official notice is taken that syndication networks (as defined by the instant specification, page 10, lines 19-21) are well known, e.g., advertisers who supply banner ads to one or more Websites for publication. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the delivery means to be a syndication network, for the obvious advantage of placing advertisements or other desired components on multiple Web sites.

It is noted that claims 1-31 use "means for" language. Nonetheless, they are not treated as invoking 35 U.S.C. 112, sixth paragraph. If Applicant wishes to invoke 35 U.S.C. 112, sixth paragraph, Applicant should provide an explicit statement to that effect. 35 U.S.C. 112, sixth paragraph states:

> An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of

structure, material or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

**Claims 32-34**

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al. (U.S. Patent 6,313,835) in view of Singh (U.S. Patent 6,308,206) and Markus et al. (U.S. Patent 6,490,601). Gever discloses an Internet advertising system comprising: a multimedia presentation comprising at least one component selected from a group consisting of computer generated animation and full-motion video, a given item within the selected component of the multimedia presentation represented by (presumably) an embedded placeholder, the embedded placeholder programmed to dynamically follow a series of actions of the given item within the multimedia presentation (column 2, line 5, through column 3, line 5); a set of advertisements corresponding to the embedded placeholder (column 1, lines 52-61; column 2, line 5, through column 3, line 5; column 8, lines 3-10); identifier means for identifying a user (inherent from column 2, lines 36-59); selector means for selecting a relevant advertisement from the set of advertisements, wherein the selector means select the relevant advertisement subsequent to the identification of the user by the identifier means (column 2, line 26, through column 3, line 5, and column 8, lines 3-10); inserter means for inserting the relevant advertisement into the embedded placeholder of the multimedia presentation, the inserter means configured to receive the relevant advertisement from the selector means so as to create a seamless advertisement programmed to dynamically follow the series of

actions of the given item integrated within the multimedia presentation and targeted to the user's demographic characteristics, and configured to insert the relevant advertisement after identifying the at least one demographic characteristic (inherent from column 2, line 14 through column 3, line 5; and column 8, lines 3-10); and delivery means for delivering the multimedia presentation to the user (column 15, line 49, through column 16, line 14). Arguably, Gever's disclosure implies an embedded placeholder, to hold a place for such alternative pictures or animations as a background which changes with the time or season (column 3, lines 1-5). Even if Gever's invention could somehow be implemented as described in Gever's patent without anything qualifying as an embedded placeholder, the use of embedded placeholders is well known, as taught by Singh (column 3, lines 50-63). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to use an embedded placeholder as recited, for the obvious advantage of readily presenting whatever advertisements, animations, etc., were to be presented in accordance with the site visitor's demographic characteristics and other relevant data.

Gever does not expressly disclose that each of the advertisements are stored separate from the multimedia presentation, but it is well known for advertisements to be stored separate from a website, as taught, for example, by Markus (column 1, line 66, through column 2, line 37); this also teaches delivering to the user the ad created by the inserter means from the website and the set of ads stored separately. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the advertisements to be stored separately, for the obvious

advantage of enabling data from advertisers to be integrated into Web sites stored elsewhere.

Neither Gever nor Singh expressly discloses that the placeholder is an advertisement placeholder, although Gever mentions advertisements (column 8, lines 3-10), but advertisements in Internet presentations are well known, as taught, for example, by Markus (as above). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the placeholder to be an advertisement placeholder, for the obvious advantage of enabling data from advertisers to be integrated into Web sites and displayed to potential buyers of advertised goods and services.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, and Markus as applied to claim 32 above, and further in view of Sawyer (U.S. Patent 6,084,628). Gever does not disclose that the selector randomly selects the advertisement, but Sawyer teaches randomly selecting advertisements (column 4, lines 57-65). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the selector to randomly select the advertisement, for the stated advantage of ensuring that each advertisement reflected in a profile is shown an appropriate number of times.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, and Markus as applied to claim 32 above, and further in view of Kauffman et al. (U.S. Patent Application Publication 2002/0073084). Gever does not expressly disclose that the seamless advertisement is dynamically contained in the multimedia

presentation, but Kauffman teaches this (paragraphs 17-20). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for seamless advertisement to be dynamically contained in the multimedia presentation, for the obvious advantage of presenting dynamic advertisements to viewers.

It is noted that claims 32-34 use "means for" language. Nonetheless, they are not treated as invoking 35 U.S.C. 112, sixth paragraph. If Applicant wishes to invoke 35 U.S.C. 112, sixth paragraph, Applicant should provide an explicit statement to that effect. 35 U.S.C. 112, sixth paragraph states:

> An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

**Claim 35**

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al. (U.S. Patent 6,313,835) in view of Singh (U.S. Patent 6,308,206), Kauffman (U.S. Patent Application Publication 2002/0073084), Markus et al. (U.S. Patent 6,490,601), the anonymous article, "Macromedia Flash Animation Now Native in RealSystem 5.0," Simpson (U.S. Patent 6,453,300), McCarthy et al. (U.S. Patent 6,904,408), LeMole et al. (U.S. Patent 6,009,410), the anonymous article "RedEye Recruitment: RedEye Recruitment Push to Meet Growing Industry Demand for Accountable Online Advertising Tracking," Krishan et al. (U.S. Patent 6,442,529), the anonymous article

"Sony Goes to the Net via Visa," and optionally in view of Borella et al. (U.S. Patent 6,182,125). Gever discloses an Internet advertising system comprising: a multimedia presentation comprising at least one component selected from a group consisting of computer generated animation and full-motion video, a given item within the selected component of the multimedia presentation represented by (presumably) an embedded placeholder, the embedded placeholder programmed to dynamically follow a series of actions of the given item within the multimedia presentation (column 2, line 5, through column 3, line 5); a set of advertisements corresponding to the embedded placeholder (column 1, lines 52-61; column 2, line 5, through column 3, line 5; column 8, lines 3-10); cookies generated by an Internet browser of a user for identifying at least one demographic characteristic of the user (column 15, line 60, through column 16, line 8, the browser being held to follow from the cookies and other Internet-related procedure, as in column 1, lines 11-21); selector means for selecting a relevant advertisement from the set of advertisements, the selector means configured to receive at least one demographic characteristic of the user (column 2, line 26, through column 3, line 5, and column 8, lines 3-10). Gever does not expressly disclose the selector means comparing the user's cookies with the demographic indicators of advertisements, but given the disclosure of cookies, and of selecting advertisements or other Web page components based on demographic characteristics, this is obvious. Gever discloses inserting the relevant advertisement into the embedded placeholder of the multimedia presentation, creating an advertisement programmed to dynamically follow the series of actions of the given item integrated within the multimedia presentation and targeted to

the user's demographic characteristics, after identifying at least one demographic characteristic of the user (inherent from column 2, line 14 through column 3, line 5; and column 8, lines 3-10). Arguably, Gever's disclosure implies an embedded placeholder, to hold a place for such alternative pictures or animations as a background which changes with the time or season (column 3, lines 1-5). Even if Gever's invention could somehow be implemented as described in Gever's patent without anything qualifying as an embedded placeholder, the use of embedded placeholders is well known, as taught by Singh (column 3, lines 50-63). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to use an embedded placeholder as recited, for the obvious advantage of readily presenting whatever advertisements, animations, etc., were to be presented in accordance with the site visitor's demographic characteristics and other relevant data.

Gever does not expressly disclose that the multimedia presentation is a Macromedia Flash animation multimedia presentation, but Macromedia Flash is a well-known system for creating animations, as taught by "Macromedia Flash Animation Now Native in RealSystem 5.0" (note that the paragraph beginning "Advertisers using Flash" specifically teaching using Flash to create advertisements for the Web, complete with animation). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the animation to be created using Macromedia Flash, for the obvious advantage of readily creating animations viewable by many client systems.

Gever does not disclose a Macromedia Generator computer program for inserting the relevant advertisement into the embedded placeholder, but Macromedia Generator is well known, as taught by the Simpson patent, which specifically teaches using Macromedia Generator in conjunction with Flash to personalize presentations by inserting particular data (column 12, lines 3-16). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to use Macromedia Generator, for the obvious advantage of accomplishing the creation of Flash or similar animations using a standard, widely available package for that purpose.

Gever does not disclose that the system comprises a media buyer providing at least a portion of the set of advertisements, but media buyers brokering advertising space, etc., are well known, as taught, for example, by McCarthy (column 16, lines 15-24). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for a media buyer to provide at least a portion of the set of advertisements, for the obvious advantage of running advertisements provided by persons and organizations which provide many advertisements.

Kauffman teaches identifier information from the syndication network being delivered to a rule server/selector means (paragraph 19; Figure 1), and delivering the identifier information to the media buyer is not a significant distinction, inasmuch as the media buyer places relevant advertisements in appropriate places. Kauffman does not expressly teach that the identifier information is delivered from the syndication network

to the media buyer, and the identifier information is also delivered from the syndication network to the selector means, but "RedEye Recruitment" teaches using cookies to enable advertisers to identify users (two paragraphs beginning from, "Says Paul Cook, founder"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the identifier information to be delivered from the syndication network to the media buyer as well as to the selector means, for the stated advantage of enabling advertisers to identify and target specific viewers, and personalize advertisements to individuals' needs.

Gever does not disclose a syndication network, but Kauffman teaches a syndication network for delivering to a computer operated by the user a multimedia advertising presentation (paragraphs 7-10, 18-20, and 24; Figures 1 and 3). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have a syndication network do this, for the stated advantage of incorporating advertising to target particular end users.

Gever discloses a hyperlink in the advertisement or other multimedia presentation (column 6, lines 13-15; Figure 4; column 8, lines 25-35; see also claim 6). Gever does not expressly disclose that the hyperlink in the advertisement takes the user to an advertiser's website (although "LINK1 = 'WWW.BUYLATER.COM'" in Figure 4 is highly suggestive). However, it is well known for advertisements to contain hyperlinks to an advertiser's website, as taught, for example, by LeMole (Abstract). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the hyperlink in the advertisement to be a hyperlink to

an advertiser's website, for the obvious advantage of encouraging users to browse catalogs, etc., and make purchases at the advertiser's website.

Gever does not disclose assessing a fee to the user for delivery of the multimedia presentation, but it is well known to charge fees to users for viewing desirable content, fees being apportioned to one or more of the content owner, the owner of a delivery system, and/or the owner of a media buyer, as taught, for example, by "Sony Goes to the Net Via Visa" (especially the first paragraph). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to assess such a fee, for the obvious advantages of profiting from providing the services of providing and delivering content, and attracting advertisements by paying commissions to buyers.

Gever does not disclose assessing an advertisement charge to the sponsor of the selected advertisement delivered in the multimedia presentation, but it is well known to charge the sponsors of advertisements for running or displaying their ads, as taught, for example, by Krishan, Krishan further teaching payment to the owner of delivery means (column 1, lines 46-54). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include means for assessing an advertisement charge to the sponsor of the selected advertisement delivered in the multimedia presentation, and apportioning payment, for the stated advantage of making money from displaying the selected advertisement.

Gever does not expressly disclose that the animation is an original presentation, but it could be taken as inherent that some animations are original presentations (not all

animations could be copies of each other). Furthermore, the article, "Macromedia Flash Animation Now Native in RealSystem 5.0," discloses creating animations. But if, arguendo, this does not suffice, Borella teaches web pages including original content, including animation (column 4, lines 41-46). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the Flash animation to be an original presentation, for the obvious advantage of enabling the presenter to provide an animation according to his own desires and tastes, and to avoid having to pay royalties to someone else for use of a copied presentation.

Gever does not expressly disclose that each of the advertisements are stored separate from the multimedia presentation, but it is well known for advertisements to be stored separate from a website, as taught, for example, by Markus (column 1, line 66, through column 2, line 37); this also teaches delivering to the user the ad created by the inserter means from the website and the set of ads stored separately. Furthermore, Markus teaches that many Web pages contain links to dozens of separate remote Internet resources (column 1, line 66, through column 2, line 37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the advertisements to be stored separately, for the obvious advantage of enabling data from advertisers to be integrated into Web sites stored elsewhere.

Neither Gever nor Singh expressly discloses that the placeholder is an advertisement placeholder, although Gever mentions advertisements (column 8, lines 3-10), but advertisements in Internet presentations are well known, as taught, for

example, by Markus (as above). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the placeholder to be an advertisement placeholder, for the obvious advantage of enabling data from advertisers to be integrated into Web sites and displayed to potential buyers of advertised goods and services.

Gever does not expressly disclose that each of the advertisements are stored separate from the multimedia presentation, but it is well known for advertisements to be stored separate from a website, as taught, for example, by Markus (column 1, line 66, through column 2, line 37); this also teaches delivering to the user the ad created by the inserter means from the website and the set of ads stored separately. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the advertisements to be stored separately, for the obvious advantage of enabling data from advertisers to be integrated into Web sites stored elsewhere.

It is noted that claim 35 uses "means for" language ("selector means"). Nonetheless, it is not treated as invoking 35 U.S.C. 112, sixth paragraph. If Applicant wishes to invoke 35 U.S.C. 112, sixth paragraph, Applicant should provide an explicit statement to that effect. 35 U.S.C. 112, sixth paragraph states:

> An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

**Claim 36**

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al. (U.S. Patent 6,313,835) in view of Singh (U.S. Patent 6,308,206) and Markus et al. (U.S. Patent 6,490,601). Gever discloses an Internet advertising method comprising: providing a multimedia presentation comprising at least one component selected from a group consisting of computer generated animation and full-motion video, a given item within the selected component of the multimedia presentation represented by (presumably) an embedded placeholder, the embedded placeholder programmed to dynamically follow a series of actions of the given item within the multimedia presentation (column 2, line 5, through column 3, line 5); providing a set of advertisements corresponding to the embedded placeholder, each advertisement being indexed by at least one demographic indicator (column 1, lines 52-61; column 2, line 5, through column 3, line 5; column 8, lines 3-10); identifying at least one demographic characteristic of a user(inherent from column 2, lines 36-52); selecting a relevant advertisement from the set of advertisements, the advertisement selection including a comparison of the user's at least one demographic characteristic with at least one demographic characteristic of each advertisement to select the relevant advertisement for the user (inherent from column 2, line 26, through column 3, line 5, and column 8, lines 3-10; providing an appropriate animation sequence or other Web page component based on the geographic location of a visitor is held to imply means for making necessary comparisons, etc.); inserting the relevant advertisement into the embedded placeholder of the multimedia presentation, creating an advertisement programmed to dynamically follow the series of actions of the given item integrated within the

multimedia presentation and targeted to the user's demographic characteristics (inherent from column 2, line 14 through column 3, line 5; and column 8, lines 3-10); and delivering to the user a multimedia presentation including an advertisement, after identifying the user, including demographic information (column 15, line 49, through column 16, line 14). Arguably, Gever's disclosure implies an embedded placeholder, to hold a place for such alternative pictures or animations as a background which changes with the time or season (column 3, lines 1-5). Even if Gever's invention could somehow be implemented as described in Gever's patent without anything qualifying as an embedded placeholder, the use of embedded placeholders is well known, as taught by Singh (column 3, lines 50-63). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to use an embedded placeholder as recited, for the obvious advantage of readily presenting whatever advertisements, animations, etc., were to be presented in accordance with the site visitor's demographic characteristics and other relevant data.

Gever does not expressly disclose that each of the advertisements are stored separate from the multimedia presentation, but it is well known for advertisements to be stored separate from a website, as taught, for example, by Markus (column 1, line 66, through column 2, line 37); this also teaches delivering to the user the ad created by the inserter means from the website and the set of ads stored separately. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the advertisements to be stored separately, for the obvious

advantage of enabling data from advertisers to be integrated into Web sites stored elsewhere.

Neither Gever nor Singh expressly discloses that the placeholder is an advertisement placeholder, although Gever mentions advertisements (column 8, lines 3-10), but advertisements in Internet presentations are well known, as taught, for example, by Markus (as above). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the placeholder to be an advertisement placeholder, for the obvious advantage of enabling data from advertisers to be integrated into Web sites and displayed to potential buyers of advertised goods and services.

**Claim 37**

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable Gever et al. (U.S. Patent 6,313,835) in view of Singh (U.S. Patent 6,308,206), Kauffman (U.S. Patent Application Publication 2002/0073084), Markus et al. (U.S. Patent 6,490,601), the anonymous article, "Macromedia Flash Animation Now Native in RealSystem 5.0," Simpson (U.S. Patent 6,453,300), McCarthy et al. (U.S. Patent 6,904,408), LeMole et al. (U.S. Patent 6,009,410), the anonymous article "RedEye Recruitment: RedEye Recruitment Push to Meet Growing Industry Demand for Accountable Online Advertising Tracking," Krishan et al. (U.S. Patent 6,442,529), the anonymous article "Sony Goes to the Net via Visa," and optionally in view of Borella et al. (U.S. Patent 6,182,125). Claim 37 is largely parallel to claim 35, and rejected on essentially the same grounds.

Additionally, claim 37 still recites multiple sets of advertisements, a limitation which Applicant's amendment has now removed from claim 35. Gever does not expressly disclose that there are multiple sets of advertisements, each set corresponding to one of the at least two embedded placeholders, but it is held to be within the scope of a person of ordinary skill in the art to duplicate known parts for multiple effects (*St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8, 11; 549 F2d 833 (7th Cir. 1977); *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960)). Furthermore, Markus teaches that many Web pages contain links to dozens of separate remote Internet resources (column 1, line 66, through column 2, line 37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for there to be multiple sets of advertisements, each set corresponding to one of the at least two embedded placeholders, for the obvious advantage of presenting multiple ads, at different points in a web site, and/or at different times during a multimedia presentation.

**Claims 38-41**

Claims 38, 39, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al. (U.S. Patent 6,313,835) in view of Mack ("Breaking Through the Cyber Ceiling") and Singh (U.S. Patent 6,308,206). As per claim 38, Gever discloses a multimedia presentation having an animation, said animation having a character that moves in a series of actions (column 7, line 56, through column 9, line 60; column 13, lines 1-5). Gever does not disclose the character having an embedded advertisement placeholder, but embedded placeholders are well known, as implied in

Gever (column 2, line 5, through column 3, line 5) and taught by Singh (column 3, lines 50-63), while Mack teaches a website with cartoon characters that may sport, for example, an advertising T-shirt (final paragraph), and t-shirts commonly remain in a fixed positional relationship to the characters wearing them as the characters move, whereby an advertisement would dynamically follow a character's series of actions while remaining in said fixed positional relationship to said character. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the character to have such an embedded advertisement placeholder, for the obvious and implied advantage of effectively advertising products, and receiving sponsorship therefor.

Gever further discloses a set of advertisements corresponding to the embedded placeholder, and indexed by one or more demographic indicators, implying selector means for selecting an advertisement from said set of advertisements based on demographic indicators (column 1, lines 52-61; column 2, line 5, through column 3, line 5; column 8, lines 3-10; note also column 9, line 61, through column 10, line 2).

As per claims 39 and 40, Gever discloses that each of the advertisements corresponds to a demographic indicator (ibid.).

As per claim 41, Gever does not disclose an embedded advertisement placeholder operatively on clothing of the character, but Mack teaches advertising on characters' clothing (final paragraph). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the embedded advertisement placeholder to be operatively on clothing of the character, for

the obvious and implied advantage of effectively advertising products, and receiving sponsorship therefor.

**Claims 42-44**

Claims 42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al. (U.S. Patent 6,313,835) in view of Mack ("Breaking Through the Cyber Ceiling") and Singh (U.S. Patent 6,308,206). As per claim 42, Gever discloses a multimedia presentation having an object, said object being distinct from a general background of a presentation which can be multimedia (column 7, line 56, through column 9, line 60; column 13, lines 1-5). Gever further discloses a plurality of advertisements, an advertisement being selected (column 1, lines 52-61), and discloses a user identifier having a user characteristic, used to select what is to be displayed to that user (column 15, line 60, through column 16, line 8), an inserter that inserts appropriate advertisements or other material into an embedded placeholder (inherent from column 2, line 14 through column 3, line 5; and column 8, lines 3-10); and a delivery system for delivering multimedia presentations to a user (column 15, line 49, through column 16, line 14). Gever does not disclose the character having an embedded advertisement placeholder, but embedded placeholders are well known, as implied in Gever (column 2, line 5, through column 3, line 5) and taught by Singh (column 3, lines 50-63), while Mack teaches a website with cartoon characters that may sport, for example, an advertising T-shirt (final paragraph), i.e., an object in a presentation wherein the object includes an advertisement and remains dynamically contained in the presentation. Hence, it would have been obvious to one of ordinary

skill in the art of electronic commerce at the time of applicant's invention for the object to include an embedded advertisement placeholder that remains dynamically contained in said multimedia presentation, for the obvious and implied advantage of effectively advertising products (on characters' shirts, or similarly), and receiving sponsorship therefor.

As per claim 44, in both Gever and Mack (as above), the object is selected from the group consisting of graphics, animated graphics, and full-motion video.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gever, Singh, and Mack as applied to claim 42 above, and further in view of LeMole et al. (U.S. Patent 6,009,410). Gever discloses a hyperlink in the advertisement or other multimedia presentation (column 6, lines 13-15; Figure 4; column 8, lines 25-35; see also claim 6). Gever does not expressly disclose that the hyperlink in the advertisement is a hyperlink to a sponsor's website (although "LINK1 = 'WWW.BUYLATER.COM'" in Figure 4 is highly suggestive). However, it is well known for advertisements to contain hyperlinks to an advertiser's website, as taught, for example, by LeMole (Abstract). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the hyperlink in the advertisement to be a hyperlink to an advertiser's website, for the obvious advantage of encouraging users to browse catalogs, etc., and make purchases at the advertiser's website.

***Response to Arguments***

Applicant's arguments filed September 25, 2006, have been fully considered but they are not persuasive. Applicant argues that Gever does not teach or suggest an "embedded advertisement placeholder," which is strictly speaking true, but Examiner points out in reply that the combination of art applied does strongly suggest such an embedded advertisement placeholder, as set forth in the rejections above. Similarly, Gever discloses animations which "dynamically perform" or "dynamically follow" sequences of actions, making the use of such animations for advertising obvious. Advertising is found in many places, and should Applicant consider amending claims 1-37 to define dynamic following of advertising more closely, Applicant may wish to take note of the "Cosmo Software" article, as well as the art applied I making the above rejections.

As to new independent claims 38 and 41, Examiner agrees that Gever does not anticipate them, but other prior art, notably Mack, is held to make them obvious, as set forth in the rejections above.

Applicant argues that Singh fails to show (1) selector means for selecting a relevant advertisement, and (2) inserter means for inserting the relevant advertisement into the embedded advertisement placeholder. Examiner replies, regarding (1), that Gever discloses, as part of his invention, providing selector means for selecting user-specific presentations (inherent from column 2, line 26, through column 3, line 5, and column 8, lines 3-10), and discloses, as prior art, selecting advertisements to display based on user demographic factors (column 1, lines 52-61). Examiner replies,

regarding (2), that Gever discloses inserter means, as inherent from column 2, line 14 through column 3, line 5; and column 8, lines 3-10. Gever does not disclose inserter means inserting precisely what Applicant recites, but this, as set forth above, is held to be obvious in view of the other prior art of record.

Applicant argues, with regard to Singh, disclose "embedded placeholders" in a different context from Applicant's invention, and which do not represent dynamic objects within a computer-generated animation. Examiner replies that Singh was merely replied upon to teach embedded placeholders, and not to disclose the rest of the claimed invention, making Applicant's argument an instance of piecemeal analysis. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Similarly, Examiner has not claimed that Markus teaches the main features, but has merely relied upon Markus to show that it was well known to store advertisements separately from a website, and therefore obvious to apply this feature to other advertisements, even advertisements of a somewhat different type from those taught in Markus.

The common knowledge or well-known in the art statements in the previous office action are taken to be admitted prior art, because Applicant did not traverse Examiner's taking of official notice.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Khoo et al. (U.S. Patent 7,124,091) disclose a method and system for ordering an advertising spot over a data network. Nguyen et al. (U.S. Patent 7,131,062) disclose systems, methods, and computer program products for associating dynamically generated web page content with web page visitors. Merrick et al. (U.S. Patent Application Publication 2002/0097244) disclose a system and method for automatic animation generation.

Gever et al. (WO 97/35280 A2) discloses programmable computer graphic objects.

The anonymous article, "Cosmo Software Demonstrates Streaming Interactive Animations With Synchronous Audio Via RealSystem G2," discloses replacing ad banners with small television-type commercials, complete with animated, talking, interactive characters. The anonymous article, "Interactive Business Channel Corrects and Replaces Previous Release," discloses cartoon characters used to promote various businesses. The anonymous article, "Pulse Entertainment Adds Unique, Life-Like Character to Excite@Home's 'Excite Extreme'; Pacesetting Internet Technology Company Showcases Portal Capabilities on Excite Extreme," discloses interactive 3-D animation on the Internet, which may be applied to advertising. The anonymous article, "Artificial Life Launches Interactive Banner Bots for the Internet Advertising Community," discloses animated characters in banner advertisements, allwoing interactive conversation with users.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith, can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nicholas D. Rosen

**NICHOLAS D. ROSEN**
**PRIMARY EXAMINER**

December 7, 2006